

FILED

FEB 21 2019

Clerk, U.S. District Court
District Of Montana
Great Falls

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALOYSIOUS WELLS,

Defendant.

CR 12-100-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Aloysious Wells (Wells) has been accused of violating the conditions of his supervised release. Wells admitted the alleged violations. Wells's supervised release should be revoked. Wells should be placed in custody for 3 months, with 117 months of supervised release to follow. Wells should serve the first two months of supervised release at Connections Corrections in Butte, Montana.

II. Status

Wells pleaded guilty to Abusive Sexual Contact on March 4, 2013. (Doc. 27). The Court sentenced Wells to 20 months of custody, followed by 10 years of supervised release. (Doc. 45). Wells's current term of supervised release

began on August 8, 2014. (Doc. 63 at 1).

Petition

The United States Probation Office filed a Second Amended Petition on February 19, 2019, requesting that the Court revoke Wells's supervised release. (Doc. 63). The Petition alleges that Wells violated the conditions of his supervised release: 1) by using and possessing a controlled substance; 2) by failing to follow the instructions of his probation officer; 3) by using methamphetamine; 4) by submitting an improper urine sample for testing; 5) by failing to report for sex offender treatment; and 6) by failing to report for substance abuse testing. (Doc. 63 at 2-4). United States District Judge Brian Morris issued a warrant for Wells's arrest.

Initial appearance

Wells appeared before the undersigned for his initial appearance on the Second Amended Petition on February 19, 2019. Wells was represented by counsel. Wells stated that he had read the petition and that he understood the allegations. Wells waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on February 19, 2019. Wells

admitted that he had violated the conditions of his supervised release: 1) by using and possessing a controlled substance; 2) by failing to follow the instructions of his probation officer; 3) by using methamphetamine; 4) by submitting an improper urine sample for testing; 5) by failing to report for sex offender treatment; and 6) by failing to report for substance abuse testing. The violations are serious and warrant revocation of Wells's supervised release.

Wells's violations are Grade C violations. Wells's criminal history category is I. Wells's underlying offense is a Class A felony. Wells could be incarcerated for up to 60 months. He could be ordered to remain on supervised release for up to 120 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

Wells requested a term of custody of 2 months. The government requested a term of custody of 4 months.

III. Analysis

Wells's supervised release should be revoked. Wells should be incarcerated for 3 months, with 117 months of supervised release to follow. Wells should serve the first 2 months of supervised release at Connections Corrections in Butte, Montana. The supervised release conditions imposed previously should be continued. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Wells that the above sentence would be recommended to Judge Morris. The Court also informed Wells of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Wells that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Wells stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court FINDS:

That Aloysious Wells violated the conditions of his supervised release by using and possessing a controlled substance, by failing to follow the instructions of his probation officer, by using methamphetamine, by submitting an improper urine sample for testing, by failing to report for sex offender treatment, and by failing to report for substance abuse testing.

The Court RECOMMENDS:

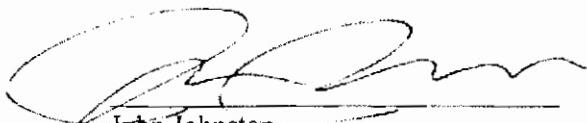
That the District Court revoke Wells's supervised release and commit Wells to the custody of the United States Bureau of Prisons for a term of imprisonment of 3 months, with 117 months of supervised release to follow. Wells should serve the first 2 months of supervised release at Connections Corrections in Butte, Montana.

NOTICE OF RIGHT TO OBJECT TO FINDINGS AND RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT

The parties may serve and file written objections to the Findings and

Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 21st day of February, 2019.



John Johnston
United States Magistrate Judge